

REMARKS

Claims 1 and 4-7 are now pending in this application for which applicants seek reconsideration.

Amendment

Claims 1 and 4-7 have been amended. Independent claims 1 and 5 have been amended to incorporate part of claims 4 and 7, respectively. Moreover, claim 1 has been further amended to define that the sound-insulating wall forms an opposite face confronting the openings of the first and second communication paths. Claim 5 has been further amended to define that the first communication path is above the second communication path. No new matter has been introduced.

Art Rejection

Claims 1 and 5 now stand rejected under 35 U.S.C. § 102(a) as anticipated by Lee (USP 6,446,454). Claims 1, 4, 5, and 7 now stand rejected under § 103(a) as unpatentable over Todescat (USP 4,911,619) in view of Lee and Ono (USP 6,155,067). Lastly, claim 6 now stands rejected under § 103(a) as unpatentable over Lee in view of Myung (USPGP 2002/0090305). Applicants traverse these rejections at least because the applied references would not have disclosed or taught the features set forth in dependent claims 4 and 7, which are now incorporated in independent claims 1 and 5.

Specifically, independent claim 1 now calls for the first and second communicating paths opening in a horizontal direction, and the sound-insulating wall forming an opposite vertical face confronting both of the horizontally oriented openings of the first and second communication paths. Because of this configuration, the lubricating oil in the sound-deadening space falls to the bottom while both the lubricating oil and the refrigerant exiting from the second communication path are accumulating in the sound-deadening space. That is, the lubricating oil partly separate and drop to the bottom of the sound-deadening space via gravity, while both the lubricating oil and the refrigerant are being sucked through the first communication path. Because the sound-insulating wall is vertically oriented, only a small part of it becomes immersed in the lubricating oil.

In contrast, because Lee's sound-insulating wall 42 is horizontally disposed, the entire sound-insulating wall becomes immersed even if the quantity of the lubricating oil is very small, lowering the sound-insulating capability. Specifically, the lubricating oil absorbs the reflected

waves of pressure pulsation of the compression room, reducing the sound-insulating capability. In the device of claim 1, only part of the sound-insulating wall is immersed in the lubricating oil, so that the sound-insulating capability is retained.

Independent claim 5 now also calls for the first and second communicating paths opening in a horizontal direction. Claim 5 further defines that the first communication path is disposed above the second communication path. Due to this configuration, where the sound-insulating wall serving as a guiding wall to guide the refrigerant from the second communication path to the first communication path located above the second communication path, the lubricating oil, which flows together with the refrigerant from the second communication path, becomes mostly separated and dropped to the bottom of the sound-deadening space via gravity before flowing into the first communication path. Accordingly, much of the lubricant oil stays in the sound-deadening space.

Lee does not disclose the claimed communication path configuration where the first communication path formed above the second communication path. Applicants thus submit that independent claims 1 and 5 clearly distinguish over Lee within the meaning of § 102.

In rejecting claim 6, the examiner relied upon Myung for the proposition that providing a U-shaped guide wall 131 in Lee would have been obvious. Although applicants disagree with the examiner's assessment of Lee and Myung, even if the combination were deemed proper for argument's sake, Myung would not have alleviated Lee's shortcomings noted above since Myung also does not disclose or teach horizontally configured openings as set forth in claim 5.

The examiner in rejecting dependent claims 4 and 7, realizing Lee's deficiencies, relied upon Todescat. Applicants, however, submit that the combination (Todescat and Lee) urged by the examiner would not have been tenable because there would not have been any viable rationale for modifying the muffler configuration as urged by the examiner. Indeed, applicants submit that one of ordinary skill in the art would have used the muffler configuration of one or the other, but not a modified configuration thereof as there simply would not have been any viable rationale for modifying their mufflers. Moreover, even if the combination were deemed to be proper for argument's sake, Todescat still would not have taught the claimed first and second communication path arrangement where they open horizontally and along the same direction.

Indeed, as clearly seen from Figs. 3 and 4, the refrigerant/lubricant oil enters the muffler 100 via an inlet 115a of a leading pipe 115 and exits via an outlet 115b. The leading pipe 115 at best corresponds to the claimed second communication path, but opens vertically into a gas inlet nozzle 121 of the thermal insulating section 120 having an outlet 122. Even if Todescat's

outlet 115b is deemed to correspond to the claimed first communication path, for argument's sake, as urged by the examiner, applicants submit that the first and second communication paths in Todescat open vertically instead of horizontally. Accordingly, the combination urged by the examiner, even if it were deemed proper for argument's sake, would not have taught the claimed invention. Ono also would not have alleviated the shortcomings of Todescat or Lee.

Conclusion

Applicants submit that claims 1 and 4-7 patentably distinguish over the applied references and are in condition for allowance. Should the examiner have any issues concerning this reply or any other outstanding issues remaining in this application, applicants urge the examiner to contact the undersigned to expedite prosecution.

Respectfully submitted,

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DATE

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